

HEARING DATE AND TIME: OCTOBER 26, 2010 AT 9:45 A.M.
OBJECTION DEADLINE: OCTOBER 19, 2010 AT 4:00 P.M.

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ATTORNEYS FOR THE CITY OF DETROIT

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

GENERAL MOTORS CORP., *et al.*,

Debtors.

Chapter 11

Case No. 09-50026 (REG)

(jointly administered)

**CITY OF DETROIT'S RESPONSE TO DEBTORS' NINETY-EIGHTH
OMNIBUS OBJECTION TO CLAIMS (Incorrectly Classified Claims)**

NOW COMES Creditor, the City of Detroit, by and through counsel, Kilpatrick & Associates, P.C., and for its Response to the Debtors' Ninety-Eighth Omnibus Objection to Claims says as follows:

1. The City of Detroit, through the Board of Water Commission, ("City of Detroit") provides water and sewer services throughout southeastern Michigan through the Detroit Water & Sewage Department.
2. On or about November 12, 2009, the Detroit Water & Sewerage Department filed a secured Proof of Claim in the amount of \$4,939.45 ("Claim No. 23034").

3. On or about November 12, 2009, the Detroit Water & Sewerage Department filed a secured Proof of Claim in the amount of \$423,595.65 (“Claim No. 23035”).

4. On or about September 21, 2010, the Debtors filed the Debtors’ Ninety-Eighth Omnibus Objection to Claims (“98th Omnibus Objection”).

5. In the 98th Omnibus Objection, the Debtors assert that Claim No. 23034 and Claim No. 23035 should be classified as unsecured.

Municipal Water Liens Act

6. At the time of the Debtors’ filing, the Debtors owned multiple parcels of real property located in the City of Detroit which received water and sewage system service from the City of Detroit.

7. The collection of water or sewage system rates, assessments, charges, or rentals is governed by the Municipal Water Liens Act, MCL § 123.161, et seq.

8. A municipality which has operated or operates a water distribution system or a sewage system shall have a lien on the parcel of land to which the sewage system service or water was supplied, effective immediately upon distribution of the water or provision of the sewage system service. MCL § 123.162.

9. The lien for water and sewage system services has priority over all other liens except taxes or special assessments. MCL § 123.165.

Argument

10. The Debtors sold some of the real property to which the liens for water and sewerage attached.

11. The Claimant raised the concern about the liens for water and sewerage in the Objection to Sale Motion which it filed on June 19, 2009. Docket 2000.

12. As a result of the City of Detroit's objection, the Debtors agreed that any lien for pre-petition water and sewerage bills would attach to Excluded Assets and the sales proceeds with respect to the collateral. See Omnibus Reply of Debtors' to Objections to Debtor's Sale Motion.

13. The Purchaser of the real property has rejected responsibility for the payment of any pre-petition water and sewerage bills, thereby confirming that the water and sewerage bills were not Assumed Liabilities as that term is defined in the Master Sale and Purchase Agreement. See July 14, 2010 letter from Clifford T. Wimmer, attached as Exhibit A.

14. The Detroit Water and Sewerage Department is entitled to an allowance of Claim No. 23034 and Claim No. 23035 each as a secured claim pursuant to MCL § 123.162.

WHEREFORE, the City of Detroit requests that the objection to Claim No. 23034 and Claim No. 23035 be denied, that Claim No. 23034 and Claim No. 23035 be allowed as secured claims and for such other and further relief as is just and necessary.

Respectfully submitted,

KILPATRICK & ASSOCIATES, P.C.
Attorneys for City of Detroit

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Dated: October 15, 2010